IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.2627 OF 2006

Mr.Kamlakar Ganpat Patil .. Appellant.
(Orig.Plaintiff)

Vs.

Brihan Mumbai Municipal Corpn. .. Respondents.
(Orig.Defendants)

Mr.N.P.Bhavsar for the appellant.
Mr.J.J.Xavier for the respondents.

CORAM : D.B.BHOSALE, J.
DATE : 1st December, 2006

P.C.

. Heard the learned counsel for the parties.

1. The learned counsel for the appellant upon instructions from the appellant prays for withdrawal of the appeal unconditionally. He further states that some reasonable time may be granted to enable the appellant to apply for regularisation of the disputed structure. The appellant has filed affidavit dated 30/11/2006 seeking permission to withdraw the appeal with liberty to make a representation for regularisation. The affidavit is taken on record and marked as "X" for identification. Hence, I pass the following order.

a) The appellant is allowed to withdraw the appeal unconditionally and the appeal accordingly stands dismissed as withdrawn. No order as to costs.

b) If a representation is made by the appellant seeking regularisation of the disputed structure to the Competent Authority of the respondent within a period of eight weeks from today, the same shall be decided by the Competent Authority within a period of eight weeks therefrom. The decision on the said application shall be communicated to the appellant at the address mentioned in the cause title of the appeal within one week from the date of decision.

c) If the application for regularisation of the disputed structure is made within the time, as aforestated, for a period of 24 weeks from today, the disputed structure shall not be demolished by the respondent-Corporation. However, if the application is not made within the time stipulated, the respondent Corporation will be free to take action of demolition.

2. With these observations, the appeal stands dismissed. While granting liberty to make representation and granting protection to the disputed structure, as aforestated, I shall not be understood to have expressed any opinion on the right of the

respondents to pass appropriate orders thereon. The representation may be considered in accordance with law.

3. Parties to act on an authenticated copy of this order.

(D.B.BHOSALE, J.)